

Decision 06-09-037 September 21, 2006

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Utility Consumers' Action Network,

Complainant,

vs.

SBC Communications, Inc. dba SBC Pacific  
Bell Telephone Company (U-1001-C) and  
related entities (collectively "SBC"),

Defendants.

Case 05-11-011  
(Filed November 14, 2005)

Utility Consumers' Action Network,

Complainant,

vs.

Cox California Telecom II, LLC, doing  
business as Cox Communications, and related  
entities (collectively "Cox"),

Defendants.

Case 05-11-012  
(Filed November 14, 2005)

**ORDER EXTENDING STATUTORY DEADLINE**

**Summary**

Pub. Util. Code § 1701.2(b) provides that adjudication cases shall be resolved within 12 months of initiation unless the Commission makes findings

why that deadline cannot be met and issues an order extending that deadline. In these two coordinated proceedings, the 12-month deadline is November 14, 2006.

A 120-day extension of the deadline is required because of the need to resolve certain allegations of impermissible ex parte communications by defendants in both proceedings. On June 26, 2006, the Assigned Commissioner and the Presiding Officer issued a joint ruling in both proceedings describing the alleged violations of Pub. Util. Code § 1701.2(b) and Rules 1 and 7(b) of the Commission's Rules of Practice and Procedure. Defendants were required to file declarations and provide testimony at an evidentiary hearing held on July 7, 2006. Briefing following the evidentiary hearing has been completed and the Commission may need to consider an interim decision resulting from the ex parte allegations before the complaints themselves can be resolved.

Once the ex parte allegations have been resolved, the complaint in Case (C.) 05-11-012 is likely to be dismissed pursuant to the joint motion of the complainant and defendant. In C.05-11-011, the complainant and defendant decided to submit their cases on the exhibits and prepared testimony in lieu of an evidentiary hearing. The briefing on the merits in C.05-11-011 is now underway.

As a result of the unexpected need to consider and resolve ex parte allegations (a topic that was unforeseen at the time of the Scoping Memo), an additional 120-day extension order is required under Pub. Util. Code § 1701.2(b).

### **Waiver of Comment Period**

Under Rule 77.7(f)(4) of the Commission's Rules of Practice and Procedure (Rule), the Commission may reduce or waive the period for public review and comment of draft decisions extending the deadline for resolving adjudicatory proceedings. Accordingly, pursuant to Rule 77.7(f)(4), the otherwise applicable

period for public review and comment on an extension order issued pursuant to Pub. Util. Code § 1701.2(b) is being waived.

### **Findings of Fact**

1. These adjudicatory proceedings commenced on November 14, 2005.
2. The normal 12-month statutory deadline for resolving these proceedings is November 14, 2006.
3. An additional 120-day extension for resolving these proceedings is required because of unexpected, possible need for the Commission to consider an interim decision concerning alleged impermissible ex parte communications.

### **Conclusion of Law**

Effective immediately, the 12-month statutory deadline imposed by Pub. Util. Code § 1701.5(a) should be extended for a period of 120 days beyond November 14, 2006.

**IT IS ORDERED** that the 12-month statutory deadline in these proceedings, November 14, 2006, is extended until March 14, 2007.

This order is effective today.

Dated September 21, 2006, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
GEOFFREY F. BROWN  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
Commissioners